

EX PARTE OR LATE FILED
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

One Financial Center
Boston, Massachusetts 02111
Telephone: 617/542-6000
Fax: 617/542-2241

Telephone: 202/434-7300
Fax: 202/434-7400
Telex: 753689

Direct Dial Number
(202) 434-7385

RECEIVED

MAR 22 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Donna N. Lampert

March 22, 1995

DOCKET FILE COPY ORIGINAL

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

EX PARTE NOTICE

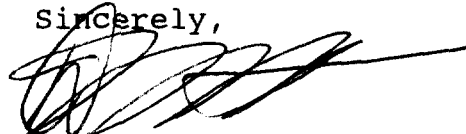
**Re: Price Cap Performance Review For Local Exchange
Carriers, CC Docket No. 94-1**

Dear Mr. Caton:

In accordance with Section 1.1206(a)(1) of the Commission's rules, the purpose of this letter is to provide notification that the attached ex parte presentation to Kathleen M.H. Wallman was made by the California Cable Television Association in connection with the above-referenced docket. Two copies of this notice and the presentation are hereby submitted for inclusion in the public record.

For any additional information, please contact the undersigned.

Sincerely,



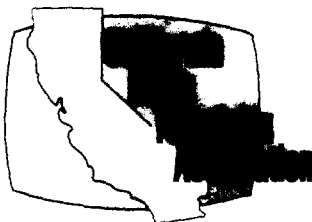
Donna N. Lampert

Attachment

37314.1

No. of Copies rec'd
List A B C D E

022



RECEIVED

MAR 22 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 22, 1995

4341 PIEDMONT AVENUE
P.O. BOX 11080
OAKLAND, CALIFORNIA 94611

(510) 428-2225
FAX (510) 428-0151

JEFFREY SINSHEIMER
Director of Regulatory Affairs

Kathleen M.H. Wallman
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

**Re: Price Cap Performance Review For Local Exchange
Carriers, CC Docket No. 94-1**

Dear Ms. Wallman:

As the Commission speeds towards its March 30, 1995 decision in its fourth year review of Local Exchange Carrier ("LEC") performance under price caps, the California Cable Television Association ("CCTA") is concerned that recent proposals to use the price cap mechanism to fund investment in our nation's educational institutions will create a serious imbalance among competitive industries involved in upgrading our nation's communications infrastructure.

CCTA agrees with Chairman Hundt's recent statements to the American Association of Higher Education that educational institutions have a stake in ensuring that there is competition in the building of the information superhighway. Indeed, CCTA's members have long recognized that all industries should promote this important and laudable goal of ensuring that schoolchildren benefit from the evolving telecommunications infrastructure. As active participants in the development of this infrastructure, cable television operators and programmers, both in California and throughout the United States, have invested over \$300 million in the Cable in the Classroom program, which is designed to enrich the education of students throughout the country.

Each month, Cable in the Classroom makes non-commercial, high quality, educational programming available to schools and homes through cable television. Over 25 cable television networks donate more than 525 hours of commercial-free programming each month as part of their commitment to the future of our children. As of February 1995, Cable in the Classroom serves over 35,000,000 students in over 64,500 schools across the

Kathleen M.H. Wallman
March 22, 1995
Page -2-

country. Market research performed by Cable in the Classroom, Quality Educational Data, and Nielsen Media Research shows that in California, 58% of the schools, representing a total student population of 72% of all students in California, receive cable television. Sixty-one cable television multiple system operators and 28 programmers participate in this important program nationwide.

I am attaching for your consideration Delivering the Future: Cable and Education Partnerships for the Information Age, written by Dr. Bobbi L. Camille, Executive Director of Cable in the Classroom. This book clearly illustrates the commitment of the cable television industry to providing educational opportunities to students. It is particularly relevant to the educational issues raised in the context of this docket, given the investment by cable television operators and programmers.

CCTA's concern is that in its legitimate quest to ensure that schoolchildren are served by technological advances, permanent changes will be made to the price caps mechanism that ignore these exceptional efforts and look only to the incumbent telephone industry to fund education goals. For instance, the proposals to "wire the schools and libraries" that have been made by the American Library Association and others would give only incumbent telephone companies financial incentives to undertake infrastructure upgrades by redirecting a portion of the consumer productivity dividend. Moreover, this competitive advantage would be given at a time when telephone companies are already receiving windfalls under the price caps structure, as the price cap rates were set at a time when interest rates were much higher than today. Since that time, these carriers have refinanced their debt in order to achieve significant additional windfalls.

These proposals are flawed in several respects. First, they ignore the fact that competition can promote the greatest incentives to invest in an advanced telecommunications infrastructure. Instead, these proposals in effect choose the local telephone industry as the best candidate to promote America's educational goals and ignore the potential that other industries have demonstrated in this regard.

Second, the proposals needlessly intertwine these important issues with critical pricing issues. If the FCC is serious about promoting technological advances for schools and libraries, it should undertake a comprehensive investigation of the issues, independent of the price caps docket. Through a comprehensive

Kathleen M.H. Wallman
March 22, 1995
Page -3-

inquiry, the FCC could develop a record that would reflect the efforts of all industries to promote educational goals. Indeed, the Commission has previously recognized in other proceedings that many industry participants have taken steps "to include the connection of classrooms, libraries, and healthcare facilities to the telecommunications infrastructure as part of their investment planning."^{1/} The FCC should only act on these critical issues after it has adequate information regarding existing industry efforts, technologies, and the costs and benefits of these endeavors.

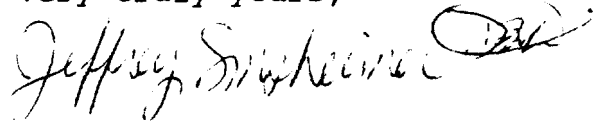
Consistent with these concerns, CCTA continues to believe that the best solution is for the Commission to retain sharing and the productivity factor and permit a one-time downward rate adjustment to take into account the windfall profits that the LECs have been achieving since the federal price cap rates were established. If the Commission chooses to encourage investment in educational infrastructure and curriculum by telecommunications providers, such policies should be industry-neutral and promote competition rather than give a single industry -- in this case, the LEC industry -- any competitive advantage.

In accordance with Section 1.1206(a)(1) of the Commission's rules, two copies of this presentation have been forwarded to the Secretary for inclusion in the record. Should you have any further questions concerning this matter, please feel free to contact me at our Oakland office.

^{1/} See In the Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Notice of Inquiry in CC Docket 80-286, FCC #94-199, adopted August 2, 1994, at para.5

Kathleen M.H. Wallman
March 22, 1995
Page -4-

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeffrey Sinsheimer", followed by a circular flourish or initial.

Jeffrey Sinsheimer

Attachment

cc: Reed E. Hundt, Chairman
James H. Quello
Susan P. Ness
Andrew C. Barrett
Rachelle Chong
Blair S. Levin
Karen Brinkman
Michael Katz
Lauren J. Belvin
James Casserly
James R. Coltharp
Richard Welch
A. Richard Metzger
Mark Uretsky
John Morabito
Geraldine Matise
James D. Schlichting
Robert M. Pepper
Meredith Jones
Gregory J. Vogt
John E. Logan

CC 94-1

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

X Other materials which, for one reason or another, could not be scanned into the RIPS system.

BOOK. 234 Pages.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

TITLE: DELIVERING THE FUTURE